

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARL BROWN,

Plaintiff,

-against-

FORMER, SUPT. OF GREEN HAVEN
THOMAS GRIFFIN *et al.*,

Defendants.

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 5/18/2020

19-CV-2296 (NSR)
ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff, currently incarcerated at Sullivan Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging various constitutional violations emanating from his incarceration at Green Haven Correctional Facility. By order dated June 20, 2019, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* ("IFP").¹ (ECF No. 8.) Thereafter, by order dated July 9, 2019, the Court dismissed Plaintiff's claims against the New York State Department of Corrections and Community Supervisions ("DOCCS") as barred by the Eleventh Amendment and dismissed Plaintiff's claims against the remaining defendants for failure to allege facts showing personal involvement. (ECF No. 10.) In its order, the Court granted Plaintiff leave to amend his complaint. (*Id.*) The Court received Plaintiff's amended complaint on August 19, 2019. (ECF No. 13). The Court later received another amended complaint from Plaintiff on October 21, 2019 (the "Second Amended Complaint"). (ECF No. 17).

The Court deems the Second Amended Complaint as the operative complaint in this action. Consistent with the Second Amended Complaint, the Court instructs the Clerk of Court to modify

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(b)(1).

the case caption and parties as follows: (1) terminate Defendants C.O. Jeveri Pitter, C.O. Jeffrey Bonzim, C.O. Tevert Pitters, C.O. Zikiya Reyes,² and Lt. Bucolo³ from the case, (2) modify Defendant C.O. Steven Purcell's name to C.O. Steven Purcell, Jr., and (3) add Defendant C. Steven Purcell, Sr. to the case and case caption.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

To allow Plaintiff to effect service on Defendants (1) Thomas Griffin, (2) C.O. Zikiya Reyes-Jordan, (3) Lt. Susan Hann, (4) Superintendent LaManna, (5) Lt. Orazio Bucolo, (6) DSS

² The Clerk should *not* terminate Defendant C.O. Zikiya Reyes-Jordan from the case.

³ The Clerk should *not* terminate Defendant Lt. Orazio Bucolo from the case.

A. Russo, (7) C.O. Daniel Huttel, (8) C.O. Clifford Gunsett, (9) C.O. Steven Purcell, Jr., (10) C.O. James Garcia, (11) C.O. Keith Daishawn, (12) C.O. Jeffery Bengim, (13) Dr. Yelena Korobkova, (14) C.O. Fonseca, (15) C.O. Robert Womacsko, (16) Sgt. Dennis Benitez, Jr., (17) Lt. Byran P. Anspach, (18) C.O. Damon M. Ausman, (19) Craig F. Doyle, (20) C.O. Christina Lorenzo, (21) Captain Bey, (22) Robert Hotaling, (23) Anthony Annucci, Acting Commissioner for DOCCS, and (24) C. Steven Purcell, Sr. through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these defendants. According to the second amended complaint, the service address for all Defendants, except Anthony Annucci, is Green Haven Correctional Facility, 594 Route 216, Stormville, NY, 12582-0010. The service address for Defendant Anthony Annucci is 1220 Washington Ave., Albany, NY 12226. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to modify the case caption and parties as follows: (1) terminate Defendants C.O. Jeveri Pitter, C.O. Jeffrey Bonzim, C.O. Tevert Pitters, C.O. Zikiya Reyes,⁴ and Lt. Bucolo⁵ from the case; (2) modify Defendant C.O. Steven Purcell’s name to C.O. Steven Purcell Jr.; and (3) add Defendant C. Steven Purcell Sr. to the case and caption.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Defendants Griffin, Reyes-Jordan, Hann, LaManna, Bucolo, Russo, Huttel, Gunset, Purcell Jr.,

⁴ The Clerk should *not* terminate Defendant C.O. Zikiya Reyes-Jordan from the case.

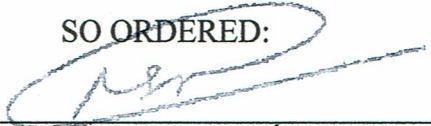
⁵ The Clerk should *not* terminate Defendant Lt. Orazio Bucolo from the case.

Garcia, Daishawn, Bengim, Korobkova, Fonseca, Womacsko, Benitez Jr., Anspach, Ausman, Doyle, Lorenzo, Bey, Hotaling, Annucci, and Purcell Sr., and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail a copy of this order, together with an information package, to Plaintiff at his address as listed on ECF and to show proof of service on the docket.

Dated: May 18, 2020
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Thomas Griffin
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
2. C.O. Zikiya Reyes-Jordan
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
3. Lt. Susan Hann
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
4. Supt. LaManna
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
5. Lt. Orazio Bucolo
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
6. DSS A. Russo
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
7. C.O. Daniel Huttel
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
8. C.O. Clifford Gunsett
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
9. C.O. Steven Purcell Jr.
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010

10. C.O. James Garcia
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
11. C.O. Keith Daishawn
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
12. C.O. Jeffery Bengim
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
13. Dr. Yelena Korobkova
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
14. C.O. Fonseca
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
15. C.O. Robert Womacsko
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
16. Sgt. Dennis Benitez Jr.
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
17. Lt. Byran P. Anspach
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
18. C.O. Damon M. Ausman
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010

19. Craig F. Doyle
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
20. C.O. Christina Lorenzo
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
21. Captain Bey
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
22. Lt. Robert Hotaling
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010
23. Anthony Annucci, Acting Commissioner for DOCCS
Department of Corrections and Community Supervision
1220 Washington Avenue
Albany, NY 12226
24. Steven Purcell Sr.
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582-0010